

**STATEMENT OF CONSIDERATION RELATING TO  
907 KAR 1:046**

**Department for Medicaid Services  
Amended After Comments**

(1) A public hearing regarding 907 KAR 1:046 was not requested and; therefore, not held.

(2) The following individuals submitted written comments regarding 907 KAR 1:046:

<u>Name and Title</u>	<u>Organization/Agency/Other Entity</u>
Kathy Adams, Director of Public Policy	The Children's Alliance
Steve Shannon, Executive Director	Kentucky Association of Regional Programs (KARP)

(3) The following individual from the promulgating agency responded to comments received regarding 907 KAR 1:046:

<u>Name and Title</u>	<u>Organization/Agency/Other Entity</u>
Stuart Owen, Regulation Coordinator	Department for Medicaid Services
Kristina Hayden, Internal Policy Analyst IV	Department for Medicaid Services
Leslie Hoffmann, Director	Department for Medicaid Service, Division of Behavioral Health, Developmental and Intellectual Disabilities

**SUMMARY OF COMMENTS AND AGENCY'S RESPONSES**

(1) Subject: Thank you

(a) Comment: Steve Shannon, Executive Director of the Kentucky Association of Regional Practitioners stated: "KARP thanks the Department for Medicaid Services for the filing of this regulation and looks forward to working with DMS on the implementation of providing primary care services at the Community Mental Health Centers.

Thank you for the opportunity to submit comments."

(b) Response: The Department for Medicaid Services (DMS) appreciates the support.

**(2) Subject: "Necessity, Function and Conformity"**

**(a) Comment:** Kathy Adams, Director of Public Policy for the Children's Alliance stated the following: Page 1, Line 13-15 Recommend that language be added to the "Necessity, function and conformity" section to clarify that this regulation applies to Medicaid recipients, including those enrolled with a managed care organization."

**(b) Response:** Via an "amended after comments" administrative regulation DMS is amending the language as follows to clarify that the coverage provisions and requirements apply to the whole Medicaid Program. As Medicaid recipients include Medicaid recipients who are not enrolled with a managed care organization as well as those who are [defined as "enrollees" in Section 1(4)] DMS believes that the revised language is adequate.

**"This administrative regulation establishes the [Department for] Medicaid Program's[Services] coverage provisions and requirements regarding primary care services provided in a community mental health center to Medicaid recipients."**

**(3) Subject: Grammatical recommendation**

**(a) Comment:** Kathy Adams, Director of Public Policy for the Children's Alliance stated the following:

**"Page 3, line 3 Recommend the word "Be" be added before the word "Provided" so that subparagraph 3. reads grammatically correct with paragraph (b), which states, "Service shall:".**

**(b) Response:** Via an "amended after comments" administrative regulation DMS is correcting the language as requested.

**(4) Subject: Use of "health record" and "medical record"**

**(a) Comment:** Kathy Adams, Director of Public Policy for the Children's Alliance commented: Page 4, line 17 Section 8 and other places throughout the regulation refers to a "current 'health record' for each recipient" but Section 12 refers to a "medical record". Recommend if these phrases mean the same thing, that one consistent phrase be used throughout this regulation and the other related regulations. If the phrases have different meanings, then we recommend that these phrases be defined in Section 1 to clarify the difference."

**Kathy Adams, also stated the following:**

**"Page 6, line 16 Section 12 refers to the "medical record". As mentioned in the comment on Page 4, line 17, suggest that either "medical record" or "health record" be used throughout this regulation and other related regulations, if these phrases refer to the same thing. . If the phrases have different meanings, then we recommend that**

these phrases be defined in Section 1 to clarify the difference."

(b) Response: DMS is replacing the term "medical record" with "health record" via an amended after comments administrative regulation to establish consistency.

(5) Subject: Auditing authority

(a) Comment: Kathy Adams, Director of Public Policy for the Children's Alliance stated the following:

"Page 6, line 15-16 Recommend that provisions be added to Section 12 to provide a managed care organization the same authority to audit any claim, medical record or documentation associated with any claim or medical record for an enrollee, as the department."

(b) Response: Via an "amended after comments" administrative regulation DMS is inserting language to establish that MCOs have auditing authority.

(6) Subject: Duplicate Payment

(a) Comment: Kathy Adams, Director of Public Policy for the Children's Alliance stated the following:

"Page 5, line 12-15 Recommend that provisions be added to include duplicate payment or overpayment made by a managed care organization like (2)(a) and (b) currently prescribes for the department."

(b) Response: Via an "amended after comments" administrative regulation DMS is inserting language to establish that duplicate payments made by an MCO must be returned to the MCO.

**SUMMARY OF STATEMENT OF CONSIDERATION  
AND  
ACTION TAKEN BY PROMULGATING ADMINISTRATIVE BODY**

The Department for Medicaid Services (DMS) has considered the comments received regarding 907 KAR 1:046 and is amending the administrative regulation as follows:

**Page 1**

**NECESSITY, FUNCTION, and CONFORMITY Paragraph**

**Line 14**

Before "Medicaid", delete "Department for".

After "Medicaid", insert "Program's"  
Delete "Services".

**Line 15**

After "center", insert "to Medicaid recipients".

**Page 2**

**Section 2(1)(b)3.**

**Line 3**

After "3.", insert "Be".

**Page 5**

**Section 9(2)(a)**

**Lines 12 and 13**

After "from the department", insert the following:  
or a managed care organization

**Line 14**

After "to the department", insert the following:  
or managed care organization in accordance with 907 KAR 1:671

**Page 6**

**Section 12**

**Line 15**

After "department", insert the following:  
or managed care organization in which an enrollee is enrolled

After "any", insert a colon, a return, and "(1)".

**Line 16**

After "claim", insert a semi-colon, a return, and "(2) Health".  
Delete ", medical".

After ", medical record", insert a semi-colon  
Delete the comma.

After "or", insert a return and "(3)".

After "claim or", insert "health".  
Delete "medical".